



16th Judicial Circuit

Shelby Circuit Court
Shelby Superior Court I
Shelby Superior Court II

Charles D. O'Connor
R. Kent Apsley
David N. Riggins

In the Circuit and Superior Courts of Shelby County, Indiana

-Notice and Proposed Amended Rule Regarding Exhibit Retention-

The Circuit and Superior Courts of Shelby County, Indiana, hereby give notice of their intention to amend the following local rules:

The text of the proposed new rules may be found below as underscored text. Due to recent legislative action changing felony levels and punishments, the undersigned judges find good cause exists to amend the local rules. A 30 day comment period begins on **February 9, 2015** and ends on **March 7, 2015**. Notice shall be forwarded to the Shelby County Bar Association, the Shelby County Clerk for publication on the county website, and the Division of State Court Administration for publication on the judicial website. The **effective date** of the new rules will be **March 15, 2015**. Comments regarding the Amendment should be directed to **David N. Riggins, Shelby Superior Court 2, 407 S. Harrison Street, Shelbyville, IN 46126**.

LR73-AR7-RULE 4: EVIDENCE HANDLING, RETENTION AND DESTRUCTION

In all cases, the Court shall proceed pursuant to these Rules unless the Court directs a longer retention period after motion by any party or on its own motion. This section shall not apply to exhibits that are on 8.5 x 11 inch paper or that can otherwise be easily stored in a flat court file.

4.1 CIVIL CASES, INCLUDING ADOPTION, PATERNITY, AND JUVENILE PROCEEDINGS.

All models, diagrams, documents, or material not on 8 ½ by 11 paper admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The court or the parties may substitute photographs for the actual exhibits if approved by the court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

4.2 RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL MISDEMEANOR, CLASS D, AND CLASS C FELONIES, AND ATTEMPTS, LEVEL 5 AND 6 FELONIES.

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material not on 8 ½ by 11 paper and admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the Court, one (1) year three (3) years after the case is dismissed, or the defendant is found not guilty, or ~~or~~ If the defendant is sentenced, unless an appeal is taken, exhibits shall be taken away after three (3) years. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court will notify the parties at their last known address when the items need to be removed. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the

notice. The court or the parties may substitute photographs for the actual exhibits if approved by the court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

4.3 RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL CLASS B AND A FELONIES AND LEVEL 1, 2, 3, AND 4 FELONIES.

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material not on 8 ½ by 11 paper and admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, ~~twenty (20) two (2) years~~ after the case is dismissed, ~~or the defendant found not guilty,~~ ~~or~~ If the defendant is sentenced, unless an appeal is taken they shall be taken away after 10 years. If an appeal is taken, all such exhibits shall be retained by the court reporter for ~~ten (10) (20) years~~ from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court will notify the parties at their last known address when the items need to be removed. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The court or the parties may substitute photographs for the actual exhibits if approved by the court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7. Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

4.4 MURDER

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material not on 8 ½ by 11 paper and admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, 5 years after the case is dismissed or the defendant is found not guilty. If the defendant is sentenced, the exhibits shall be taken away after fifty (50) years. If an appeal is taken, all such exhibits shall be retained by the court reporter for fifty (50) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court will notify the parties at their last known address when the items need to be removed. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The court or the parties may substitute photographs for the actual exhibits if approved by the court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7. Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

4.4 5 NON-DOCUMENTARY AND OVERSIZED EXHIBITS.

Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the trial court or Administrative Agency during the appeal. Such exhibits shall be briefly identified in the Transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits. Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

4.5 6 NOTIFICATION AND DISPOSITION.

In all cases, the Court shall provide actual notice, by mail or through the Shelby County Courthouse mailbox system, to all attorneys of record and to parties if unrepresented by counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. Counsel and parties have the duty to keep the Court informed of their current addresses and notice to the last current address shall be sufficient. Counsel's last known address shall be ascertained by reference to the Indiana Roll of Attorneys maintained by the Indiana Supreme Court. Court reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. At the time of removal, the party receiving and removing the evidence shall give a detailed receipt to the court reporter, and the receipt will be made part of the court file. In all cases, the Court, or the sheriff on the Court's order, should dispose of evidence that is not retaken after notice. The sheriff should be ordered to destroy evidence if its' possession is illegal or if it has negligible value. The sheriff should auction evidence of some value with proceeds going to the county general fund. These Rules and their retention periods will take precedence over inconsistent language in statutes. I.C. 35-33-5-5(c)(2).

4.6 7 BIOLOGICALLY CONTAMINATED EVIDENCE.

A party who offers biologically contaminated evidence should notify the trial court that the evidence may be biologically contaminated prior to offering the evidence at trial. A party can show contaminated evidence or pass photographs of it to jurors, but no such evidence, however contained, shall be handled or passed to jurors or sent to the Jury Room unless specifically ordered by the Court.

LR73-AR00 RULE 6 WEAPONS IN THE COURTHOUSE

Except for law enforcement and judicial officers, and other individuals excepted by the Court, it shall be unlawful for any person to carry or to attempt to carry into the Shelby County Courthouse a firearm, a knife, or other edged weapon. Law enforcement officers who are a party to a court case unrelated to their duties as a law enforcement officer are prohibited from carrying a weapon into the courthouse. Individuals that violate this order may be subject to contempt of court.

LR73-AR00 RULE 2 LOCAL CASELOAD PLANS

2.1 Caseload Allocation

2.1.1 Criminal Cases

Criminal case allocation shall continue to operate as specified in LR73-AR00 Rule 3 Local Caseload Plans

2.1.2 Civil Cases

2.1.2.1. Juvenile Cases. All Juvenile cases (JC, JT, JD, JS, JM, and JP) shall continue to be filed in Shelby Superior Court No. 1

2.1.2.2 Remaining Civil Cases

2.1.2.2.1 All Plenary (PL) cases shall be filed 50/50 on a random basis in Shelby Circuit Court and Shelby Superior Court No. 1

2.1.2.2.2 All Domestic Relations (DR) cases shall be filed 50/50 on a random basis in Shelby Circuit Court and Shelby Superior Court No. 1

2.1.2.2.3 All Reciprocal Support (RS) cases shall be filed in Shelby Circuit Court.

2.1.2.2.4 All Protective Orders (PO) cases shall be filed in Shelby ~~Circuit~~ Superior Court I.

2.1.2.2.5 All Small Claims (SC) shall be filed in Shelby Superior Court No. 2

2.1.2.2.6 All remaining types of civil cases (AD, AH, CT, ES, EU, GU, MH, MI and TR) shall be filed as requested by the initiating party.

LR73-AR00 RULE 3 LOCAL CASELOAD PLANS

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C. Civil Cases

Small claims and Infractions shall be filed in Shelby Superior Court No. 2.

Protective orders shall be filed in Shelby ~~Circuit~~ Superior Court I unless there is a related case in one of the other courts in which case the Protective Order case would be filed in the other court along with the related case.

Mortgage Foreclosure (MF), Plenary (PL), Civil Collections (CC), and Domestic Relations (DR) cases shall be filed on a 50/50 random basis between Shelby Circuit Court and Shelby Superior Court No. 1.

All other civil actions shall be filed in the court chosen by the initiating party.

LR73-SC8 RULE 1. POLICIES AND PROCEDURES FOR IMPLEMENTATION OF SMALL CLAIMS RULE 8

The following policies and procedures will be utilized in order to properly implement Small Claims Rule 8:

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1.9 ~~Filings shall expire after five years and must be re-filed after that period. Cases are subject to dismissal for failure to comply with Indiana Trial Rule 41.~~

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IT IS SO ORDERED THIS 6TH DAY OF FEBRUARY, 2015.

Charles D. O'Connor
Judge
Shelby Circuit Court

R. Kent Apsley
Judge
Shelby Superior Court I

David N. Riggins
Judge
Shelby Superior Court II